

kind of a vote. Both the Commission and our Committee reached the conclusion that the gift may be authorized in the budget is what we mean, by the majority of all of the members of each house. If it is a gift of credit, if it is a bond issue or if it is a loan of credit, a bond issue where the State is issuing it and is going to get it back, or if it is a loan of assets, this is not a one-time thing but it is a continuing thing that may go over a period of time. It must, therefore, require the affirmative vote of three-fifths of the members of each house.

This is done in order to flag it, in order to make it perfectly clear this is different and, therefore, must be given special treatment.

(President H. Vernon Eney resumed the Chair.)

THE CHAIRMAN: Are there any questions of the committee chairman for purposes of clarification?

Delegate Gallagher.

DELEGATE GALLAGHER: Judge Sherbow, is it your intention that when the legislature passes a bill that it must state generally what the public purpose that the bill seeks to serve?

THE CHAIRMAN: Delegate Sherbow.

DELEGATE SHERBOW: Yes, we think it is necessary to say this is a public purpose, what is the public purpose, and it must be in the legislation.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: In the Horace Mann case the one college whose grant was upheld by the Maryland Court of Appeals and subsequently by inference by the U. S. Supreme Court was Hood College. The statute which was challenged in that case, the grant to Hood as well as grants to other three colleges, four separate statutes, did not have in them in any place what the public purpose was nor were the appropriations made under any state law which spelled out the general public purpose to be served. As you would posit the language, therefore, the grant to Hood containing no statement of public purpose would be invalid.

THE CHAIRMAN: Delegate Sherbow.

DELEGATE SHERBOW: No, maybe I am going too far. Maybe I talked too quickly. It must be a public purpose, but we did not include in the statute nor in our

proposal any statement other than upon such terms and conditions as the General Assembly may prescribe by law. In other words, what we have said is it must be a public purpose in such a manner and upon such terms and conditions as the General Assembly may prescribe by law. They may say what it is, they may assume that it is so generally known that there is no need to say it but it is left to the General Assembly to so state.

But the public purpose must be an actual fact. Even though it is not stated.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Judge Sherbow, in looking at section 6.02—

DELEGATE SHERBOW: Excuse me, may I interrupt a minute?

DELEGATE GALLAGHER: Yes.

DELEGATE SHERBOW: In section 6.02 we do say there the assets or credit of the State shall not in any manner be given or loaned to any individual, association or corporation unless a public purpose will be served thereby and unless authorized by an act of the General Assembly stating the public purpose, that is different where it is a gift or loan of assets or credit.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Now, in these cases they involved not loans as we have under the Maryland Hospital Loan Commission Act but outright state matching grants: \$750,000 for dormitory if the college could raise an additional \$750,000.

This provision would require that the public purpose be stated in the act if you were giving \$750,000 of matching money, it would be a gift of an asset.

THE CHAIRMAN: Delegate Sherbow.

DELEGATE SHERBOW: Yes, that is a gift of cash, a gift of an asset, must have two things, public purpose to be served must be authorized by the General Assembly stating the public purpose.

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: I have no argument with this suggestion. I think it is a good one. The fact that it might have precluded trouble in the past. I will ask you this question, Judge Sherbow: You do not envision, your language in the constitutional draft here, to prohibit either the loan or the giving of assets of the State to